

Application No. 09/635,805
Response to Office Action of November 28, 2006

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REMARKS

This Response is submitted in reply to the Office Action mailed on November 28, 2006.

Claims 1-35 are pending in the patent application. Claims 1, 13, 14, 18, 22, 26, 30 and 33 have been amended for clarification purposes and no for any reasons related to the patentability of these claims. No new matter has been added by this Response.

Claims 1, 2, 4-14, 16-20, 22 and 24-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,960,411 to Hartman et al. ("Hartman"), in view of U.S. Patent No. 6,125,352 to Franklin et al. ("Franklin") in further view of Web pages from the Web site www.airnet.com ("Airnet") and U.S. Patent No. 6,519,627 to Dan et al. ("Dan"). Applicants respectfully submit that the combination of *Hartman*, *Franklin*, *Airnet* and *Dan* does not disclose, teach or suggest all of the elements of claims 1-35 for the following reasons.

Claim 1 is directed to a method of permitting a user to order merchandise on their computer where a server sends a Web page and an auxiliary file containing descriptive data related to a plurality of promotional items of merchandise to the user's computer. The method includes receiving the Web page and auxiliary file at the computer to produce a graphical depiction of the promotional items of merchandise on a graphical user interface on the computer. The method also includes displaying descriptive data related to at least one of the promotional items in response to a request from the user. Specifically, the descriptive data is read from the auxiliary file in response to the request from the user without further accessing or querying the server and is displayed with the graphical depiction on the graphical user interface. The present invention therefore allows the user to only have to view one Web page to see the promotional items and the descriptive data related to each item. When the user selects a particular promotional item, the method includes sending the descriptive data related to that promotional item to a selection panel which is displayed with the graphical depiction on the graphical user

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interface. The descriptive data is sent when the user's computer reads the auxiliary file to obtain the descriptive data without accessing and querying the server for that data.

The claimed invention therefore enables the user to quickly select and view promotional items of merchandise and place certain of those items in a selection panel while the user continues to view other promotional items. In particular, the claimed invention is able to do this quickly because the user's computer interacts with the auxiliary file which is received at the user's computer instead of a Web server which is remote or not local to the user's computer.

In the Office Action, the Examiner states that *Hartman* discloses the elements of amended claim 1 except the step of "receiving an auxiliary file with the web page send from the server and that the descriptive data is read from the auxiliary file without accessing and querying the server." (see the Office Action, page 4). The Examiner therefore relies on *Franklin* to remedy the deficiencies of *Hartman*. Specifically, the Examiner states: that *Franklin* teaches "receiving [an] auxiliary file with the web page sent from a server and the descriptive data is read from the auxiliary file without accessing and querying the server." (see the Office Action, page 4). Applicants disagree for the following reasons.

Franklin is directed to a system and method for conducting commerce over a distributed network where products of a plurality of merchants are compared on a client computer and the client determines a final product to purchase based on the comparison. Specifically, the Abstract in *Franklin* states:

A commerce client running on the consumer computer is configured . . . to support computer-based shopping. A merchant site Web server provides HTML-coded Web documents which describe merchant products and which host computer-based shopping options. The HTML-coded Web documents contain function-calling information by which consumer-selected options invoke shopping-related functions on either the merchant (server) computer or the consumer (client) computer. A consumer selects the options from within the Web browser to initiate shopping-related operations such as: retrieve product information from merchants on the World Wide Web, selectively store product

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information locally on the consumer computer, locally compare product information from different merchants, locally store payment source and shipping address information and selectively forward such information to merchant sites, order products from Web-based merchants, track the status of purchase orders, and receive instructional information on application usage.

Franklin does not disclose or suggest displaying descriptive data related to one or more products on the user's computer by reading the auxiliary file without further accessing and querying the merchant site server as in the claimed invention. Instead, *Franklin* discloses that the "commerce client" runs on the user's computer to support electronic shopping. The merchant and product information is stored in an electronic shopping cart while the payment source information and the shipping information is respectively stored in an electronic wallet and an electronic address book. (Col. 17, line 61 to Col. 18, line 22). The shopping cart, wallet and address book are software implemented and not transferred from a server. In fact, *Franklin* states that:

The commerce client and commerce server operate together to allow a consumer to gather product information from any number of merchants while the consumer's computer is connected to the Internet. The commerce client also permits the consumer to perform comparison shopping by reviewing product information gathered from various merchants. This product comparison can be performed by the consumer at any time (e.g., while off-line) and over any length of time, regardless of whether the consumer's computer is connected to the Internet. (Col. 4, lines 34-44).

Franklin therefore only discloses the off-line display of product information gathered from a plurality of merchants for comparison by a user. *Franklin* does not disclose or suggest displaying the descriptive data of the products by reading an auxiliary file without accessing and querying the merchant servers as in amended claim 1. The gathered product data or information is not, or is not from, an auxiliary file sent from a server, but instead is generated based on the information gathered by the user at their computer.

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Franklin specifically states that the commerce client or server includes functionality for providing a variety of commerce related services (such as accessing or returning product information, calculating taxes, processing orders, etc.). (Col. 4, lines 30-33). Furthermore, as stated above, *Franklin* teaches that the "commerce client and commerce server operate together to allow a consumer to gather product information from any number of merchants while the consumer's computer is connected to the Internet." *Franklin* therefore teaches that the product information is transferred from a merchant server to the client's or user's computer in response to a user request and thereby teaches away from the claimed invention which does not further access and query the server for such information.

Additionally, *Franklin* states that the merchant site server sends HTML documents to the user (Web page) in response to the user's request to provide the description of the merchant site such as the products that are for sale and the paying method. (Col. 8, lines 8-57). The user views the Web page on their computer and sends a request for detailed information on a product to the merchant site via the Web page when the user determines that the merchant site includes information on the product that the user needs. The merchant site server then sends the detailed information on the requested product to the user. This information includes information for setting attributes of the product such as the color of the product and a specific performance of function of the product. (Col. 8., lines 58-66). After completing this step, the user makes a selection to add the product to their shopping cart where the product information is stored in the gathered data base on the user's computer by the commerce client that is running on the user's computer. At this point, no actual purchase request by the user is sent to the merchant site.

The user later utilizes a viewing option to view the gathered product information for comparison. The user then determines the product that they want to purchase and at this point, the actual purchasing request is sent to the merchant's site.

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Thus, the information stored in the gathered database of *Franklin* is the information entered in the shopping cart by the consumer or user and is not transmitted to the user from the merchant site server. Instead, the information is worked on by the user through entry of specific characters by the user. The gathered database is accessed by the commerce client running on the user's computer. The information is not provided in an auxiliary file transmitted from the merchant site as in claimed invention because the product information stored in the gathered database is produced by the consumer or user and is stored in the user's computer in list form with other gathered product information from other Web sites or merchants.

The off-line display of the information in *Franklin*, therefore, is the display of the list stored in the gathered database on the user's computer. There is no need to access any Web sites or merchant's sites for the comparison. *Franklin* therefore does not disclose or suggest "receiving auxiliary file with the Web page sent from a server and reading descriptive data from the auxiliary file without accessing and querying the server" as in the amended claim 1. Furthermore, neither *Airnet* nor *Dan* disclose or teach such subject matter. Accordingly, Applicants submit that the combination of *Hartman*, *Franklin*, *Airnet* and *Dan* does not disclose or suggest the subject matter of amended claim 1.

Additionally in the Office Action, the Examiner states that *Hartman* and Claim 1 both disclose methods including servers which send a Web page and an auxiliary file to a user's computer when the auxiliary file includes descriptive data related to promotional items contained on the Web page. Specifically, the Examiner states that *Hartman* sends a Web page in response to a customer's demand for a product and that the Web page includes several sections such as the "101 Summary Description of Item" section which are read by the Web page without accessing or querying the server. Applicants disagree.

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Hartman does not disclose or suggest sending a Web page and an auxiliary file to a user's computer based on a request by the user. The sections of the Web page such as the "101 Summary Description of Item," "104 Detailed Description of Item," and other sections described by *Hartman* are not the same as the auxiliary file of the claimed invention. As stated in *Hartman*:

Fig. 1A illustrates the display of a Web page describing an item that may be ordered. This example Web page was sent from the server system to the client system when the purchaser requested to review detailed information about the item. This example Web page contains a summary description section 101, a shopping cart section 102, a single-action ordering section 103, and a detailed description section 104.... The summary description and the detail description sections provide information that identifies and describes the item(s) that may be ordered. The shopping cart section provides the conventional capability to add the described item to a shopping cart. The server system adds the summary description, the detailed description and the shopping cart sections to each Web page for an item that may be ordered. (Emphasis added) (Col 4., lines 4-25).

Thus, *Hartman* discloses that the detailed product information requested by a user which is contained in the summary description section 101 and detail description sections on the Web page are sent to the client computer from the server system by querying and accessing the server. *Hartman* does not disclose or suggest that this information is obtained from an auxiliary file as in the claimed invention.

For all of the above reasons, Applicants submit that the combination of *Hartman*, *Franklin*, *Airnet*, and *Dan* does not disclose, teach or suggest the subject matter of the claimed invention. Therefore, claim 1 and claims 2-12, which depend from claim 1, are each patentably distinguished over the combination of *Hartman*, *Franklin*, *Airnet*, and *Dan* and in condition for allowance.

Amended claims 13, 14, 18, 22, 26, 30 and 33 each include subject matter to amended claim 1. Therefore, Applicants respectfully submit that claims 13, 14, 18, 22, 26, 30 and 33, and dependent claims 15-17, 19-21, 23-25, 27-29, 31-32 and 34-35 which depend from these claims,

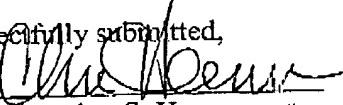
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respectively, are each patentably distinguished over the combination of *Hartman*, *Franklin*, *Airnet*, and *Dan* and in condition for allowance.

Claims 3, 15, 21 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of *Hartman*, *Franklin*, *Airnet*, *Dan* and in further view of U.S. Patent No. 6,496,208 to Bernhardt et al. ("Bernhardt"). Claim 3 depends from amended claim 1. Claim 15 depends from amended claim 14. Claim 21 depends from amended claim 18 and claim 23 depends from amended claim 22. For at least the reasons provided above with respect to amended claim 1, Applicants submit that claims 3, 15, 21 and 23 are each patentably distinguished over the combination of *Hartman*, *Franklin*, *Airnet*, *Dan* and *Bernhardt*. Additionally, claims 3, 15, 21 and 23 are patentably distinguished over the combination of *Hartman*, *Franklin*, *Airnet*, *Dan* and *Bernhardt* because this combination does not disclose or suggest the novel subject matter of claims 3, 15, 21 and 23 in combination with the novel subject matter of amended claims 1, 14, 18 and 22, respectively.

In light of the above, Applicants respectfully submit that claims 1-35 are patentable and non-obvious over the art of record because the cited art does not disclose, teach or suggest the subject matter of the claimed invention. Accordingly, Applicants respectfully request that claims 1-35 be deemed allowable at this time and that a timely notice of allowance be issued in this case.

If any fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account No. 19-1351. If such withdrawal is made, please indicate the attorney docket number (39992-400700) on the account statement.

Respectfully submitted,
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